

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

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DOUGLAS C. WALTER, and	:	
KATHLEEN PAONE	:	CIVIL ACTION NO.: 06-0378
	:	
Plaintiffs,	:	
	:	
v.	:	CLASS ACTION
	:	
PALISADES COLLECTION, LLC., et al	:	
	:	
Defendants.	:	
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**DEFENDANTS', MANN BRACKEN, LLP AND PALISADES COLLECTION, LLC,
MOTION TO TREAT PLAINTIFFS' COUNSEL'S SEPTEMBER 23, 2009
CORRESPONDENCE AS A SUGGESTION OF DEATH UNDER F.R.C.P. 25**

Defendants, Mann Bracken, LLP ("Mann Bracken") and Palisades Collection, LLC ("Palisades"), by and through their counsel, Spector Gadon & Rosen, P.C., hereby file the following Motion to Treat the September 23, 2009 correspondence from Plaintiffs counsel as a suggestion of death under Federal Rule of Civil Procedure 25, and aver as follows:

1. On January 27, 2006, Plaintiffs, Douglas C. Walter and Kathleen Paone filed a Complaint alleging multiple claims against multiple defendants including Mann Bracken and Palisades (DE 1).
2. On April 13, 2006, Plaintiffs, Douglas C. Walther and Kathleen Paone, filed an Amended Complaint against multiple defendants including Mann Bracken and Palisades, alleging numerous claims of liability. (DE 33).
3. Plaintiff's, Kathleen Paone, remaining claims contained in the Amended Complaint directed against Mann Bracken and Palisades include alleged violation(s) of the Fair Debt Collection Practices Act (15 U.S.C. §1692(a), et seq.) and the Unfair and Deceptive Trade Practices Act of the Commonwealth of Pennsylvania (73 PA C.S.A. §201-1, et seq. and 73 Pa.

C.S.A. §2270.4-.5).

4. On June 24, 2009, Plaintiffs, Douglas C. Walther and Kathleen Paone, filed a motion to certify the instant action as a class action pursuant to F.R.C.P. 23. (DE 113).

5. On July 24, 2009, Defendants, Mann Bracken and Palisades, filed a response in opposition to Plaintiffs' Motion to Certify the Instant Matter as a Class Action. (DE 114).

6. On September 23, 2009, Plaintiffs' counsel forwarded correspondence to the attention of the Assigned Trial Judge to the instant matter, the Honorable Eduardo C. Robreno, advising that according to Plaintiff, Kathleen Paone's daughter, Ms. Paone passed away on or about April 29, 2009. Moreover, in said correspondence Plaintiffs counsel represents the death certificate for Ms. Paone was provided to him the morning of September 23, 2009. (A true and correct copy of the September 23, 2009 correspondence is attached hereto as Exhibit "A").

7. Under these unfortunate circumstances, F.R.C.P. 25, "Substitution of Parties", is applicable to the current situation.

8. Pursuant to F.R.C.P. 25, if a party dies and the claim is not extinguished, the court may order substitution of the proper party. A Motion for Substitution may be made by any party or by the decedents successor representative. However, if the motion is not made within ninety (90) days after service of a statement noting the death, the action by or against the decedent must be dismissed.

9. Defendants, Mann Bracken and Palisades, suggest that the September 23, 2009 correspondence from Plaintiffs' counsel to the Court in essence is a "statement noting the death" of Plaintiff, Kathleen Paone. As such, it is Defendants', Mann Bracken and Palisades, position that the ninety day (90) day period in which counsel for Plaintiff, Kathleen Paone, must make a Motion to this Court requesting an Order for substitution of the proper party for Ms.

Paone should begin to run as of September 23, 2009.

WHEREFORE, Defendants, Mann Bracken, LLP and Palisades Collection, LLC, respectfully request that Plaintiffs September 23, 2009 correspondence addressed to this Honorable Court be considered a statement noting the death of Plaintiff, Kathleen Paone, and that any motion to this Honorable Court for substitution for a proper party for Plaintiff, Kathleen Paone, be made within ninety (90) days of September 23, 2009 along with any other relief deemed just and proper by this Honorable Court.

Respectfully submitted,

SPECTOR GADON & ROSEN, P.C.

Dated: October 16, 2009

/s/ Jonathan J. Greystone
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Counsel for Defendants,
Palisades Collection, LLC
and Mann Bracken, LLP (as successors in interest
to Wolpoff & Abramson, LLP)